SUPREME COURT OF THE UNITED STATES.

No. 137.

DRED SCOTT, Pl'ff in Er.,

vs.

JOHN F. A. SANDFORD.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE DISTRICT OF MISSOURI.

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MISSOURI DISTRICT:

Pleas before the Honorable Robert W. Wells, District Judge of the United States for the Missouri District, and one of the Judges of the Circuit Court of the United States for the Missouri District, on the day of May, 1854.

DRED SCOTT, Plaintiff,
against
JOHN F. A. SANDFORD, Defendant.

Be it remembered, that heretofore, to wit: on the second day of November, in the year of our Lord eighteen hundred and fifty-three, came the above named plaintiff, Dred Scott, by his attorney, and filed in the Clerk's Office of the Circuit Court of the United States for the Missouri District the following declaration against the defendant, John F. A. Sandford.

(*Declaration.*)

IN THE CIRCUIT COURT OF THE UNITED STATES,
for the District of Missouri:

Dred Scott, of St. Louis, in the State of Missouri, and a citizen of the State of Missouri, complains of John F. A. Sandford, of the city of New York, and a citizen of the State of New York, in a plea of trespass, for that the defendant heretofore, to wit: on the 1st day of January, A. D. 1853, at St. Louis, in the county of St. Louis, and State of Missouri, with force and arms assaulted the plaintiff, and without law or right held him as a slave, and imprisoned him for the space of six hours and more, and then and there did threaten to beat the plaintiff, and to hold him imprisoned and restrained of his liberty, so that by means of such threats the plaintiff was put in fear and could not attend to his business, and thereby lost great gains and profits which he might have made, and otherwise would have made in the prosecution of his business, to wit: two thousand five hundred dollars, and other wrongs to the plaintiff then and there did against the peace, and to the damage of the plaintiff three thousand dollars.

And also for that the defendant heretofore, on the 1st day of January, A. D. 1853, with force and arms, at St. Louis aforesaid, an assault did make on Harriet Scott, then and still the wife of the plaintiff, and then and there did imprison said Harriet, and hold her as a slave, without law or right, for the space of six hours, and then and there did threaten to beat said Harriet and hold her as a slave, so that by means of the premises said Harriet was put in great fear and pain, and could not and did not attend to the plaintiff's business, and the plaintiff lost and was deprived of the society, comfort and

assistance of his said wife, and thereby lost great gains and profits, of the value, to wit: of twenty-five hundred dollars; and other wrongs to the plaintiff the defendant then and there did against the peace, and to the plaintiff's damage three thousand dollars. And also for that the defendant heretofore, to wit: on the 1st day of January, A. D. 1853, with force and arms, at St. Louis aforesaid, made an assault on Eliza Scott and Lizzy Scott, then and still infant daughters and servants of the plaintiff, and then and there imprisoned and held as slaves said Eliza and Lizzy for a long space of time, to wit, six hours; and then and there did threaten to beat said Eliza and Lizzy, and to hold them as slaves and restrained of their liberty, so that by means of the premises said Eliza and Lizzy were put in great fear and could not and did not attend to plaintiff's business, as otherwise they might and would have done; and the plaintiff thereby lost the comfort, society, service, and assistance of his said children and servants, of great value, to wit: twenty-five hundred dollars; and other wrongs to the plaintiff the defendant then and there did against the peace, and to the damage of the plaintiff three thousand dollars. And the plaintiff on account of the aforesaid several grievances brings suit, &c., by his attorney,

R. M. FIELD.

(For April Term, 1854.)

Upon the foregoing declaration the following summons issued, viz:—

(*Summons.*)

MISSOURI DISTRICT, SCT:

The President of the United States to the Marshal of the Missouri District, greeting:

You are hereby commanded to summon John F. A. Sandford, a citizen of the State of New York, that he be and appear before the Honorable Circuit Court of the United States for the District of Missouri, at the next term thereof, to be held at the city of St. Louis, in and for said district, on the first Monday of April next, then and there to answer unto Dred Scott, a citizen of the State of Missouri, in a plea of trespass, to the damage of said plaintiff three thousand dollars. Hereof fail not, and have you then there this writ. Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, the second day of November, A. D. 1853.

Issued at office in the city of St. Louis, under the seal of said Court, the day and year last aforesaid.

BEN. F. HICKMAN,
Clerk.

Upon which said summons the Marshal made the following return, viz:—

(*Marshal's Return.*)

I hereby certify that I executed the within summons on the within named John F. A. Sandford, in the city of St. Louis, Missouri, on this second day of November, 1853, by offering to read the same and the copy of the declaration hereto attached, to and within the hearing of the said Sandford, which he declined hearing, and asked for a copy of said declaration, which I furnished him on this said 2d day of November, 1853.

THOMAS S. BRYANT,
Marshal U. S., Mo. Dist.

By ROBERT K. MOORE,
Dep.

Afterwards, at a Circuit Court continued and held for the District of Missouri, at St. Louis, on Friday, the 7th day of April, 1854, the following order was entered in the foregoing case, viz:—

(*Order noting Filing of Plea.*)

DRED SCOTT, Plaintiff,
against
JOHN F. A. SANDFORD, Defendant.

This day comes the defendant by his attorney, and files a plea, sworn to, to the jurisdiction of the Court in this case.

Which said plea is as follows, viz:—

(*Plea.*)

IN THE CIRCUIT COURT OF THE UNITED STATES,
for the District of Missouri:

DRED SCOTT
vs.
JOHN F. A. SANDFORD. } Plea to the Jurisdiction of the Court.

April Term, 1854.

And the said John F. A. Sandford, in his own proper person, comes and says that this Court ought not to have or take further cognizance of the action aforesaid, because he says that said cause of action, and each and every of them, (if any such have accrued to the said Dred Scott,) accrued to the said Dred Scott out of the jurisdiction of this Court, and exclusively within the jurisdiction of the Courts of the State of Missouri, for that, to wit: the said plaintiff, Dred Scot, is not a citizen of the State of Missouri, as alleged in his declaration, because he is a negro of African descent; his ancestors were of pure African blood, and were brought into this

country and sold as negro slaves, and this the said Sanford is ready to verify. Wherefore, he prays judgment whether this Court can or will take further cognizance of the action aforesaid.

JOHN F. A. SANFORD.

John F. A. Sandford, defendant in the above cause, makes oath and says, that the plea hereunto annexed is true in substance and in fact.

J. F. A. SANFORD.

Sworn to and subscribed before me this 16th day of November, 1853.

EDWARD E. ALLEN,
Justice of the Peace.

Afterwards, at a Circuit Court continued and held for the District of Missouri, at St. Louis, on Friday, the 14th day of April, 1854, the following further proceedings were had in said cause, viz:—

(*Demurrer to Plea filed.*)

DRED SCOTT, Plaintiff,
ag'st
JOHN F. A. SANDFORD, Defendant. } Trespass.

This day comes the plaintiff, by his attorney, and files a demurrer to the plea of defendant, heretofore filed to the jurisdiction of this Court in this case.

Which said demurrer is as follows, viz:—

(*Demurrer to Plea.*)

IN THE CIRCUIT COURT OF THE UNITED STATES,
for the District of Missouri:

April Term, 1854.

DRED SCOTT
vs.
JOHN F. A. SANFORD.

And now comes the plaintiff and demurs in law to the plea of the defendant to the jurisdiction of the Court, and says that the said plea and the matters therein contained are not sufficient in law to preclude the Court of its jurisdiction of this case, and that the plaintiff is not bound by law to reply to said plea; wherefore the plaintiff prays judgment of said plea, and that the defendant answer further to the plaintiff's said action, &c. Field, defendant, joins in the demurrer.

GARLAND,
for Def't.

Afterwards, at a Circuit Court continued and held for the District

of Missouri, at St. Louis, on Monday, the 24th day of April, 1854, the following further proceedings were had in said cause, viz:—

(*Demurrer to Plea Submitted and Argued.*)

DRED SCOTT, Plaintiff,
ag'st
JOHN F. A. SANDFORD, Defendant. } Trespass.

This day came the parties by their attorneys, and the matters of law arising upon the demurrer filed by plaintiff to the plea of defendant filed in this case, were argued and submitted to the Court; but the Court not being sufficiently advised, took time to consider thereof.

Afterwards, at a Circuit continued and held for the District of Missouri, at St. Louis, on Tuesday, the 25th day of April, 1854, the following further proceedings were had in said cause, viz:—

(*Demurrer Sustained.*)

DRED SCOTT, Plaintiff,
ag'st
JOHN F. A. SANDFORD, Defendant. } In Trespass.

This day come again the parties by their attorneys, and the Court being now sufficiently advised of and concerning the matters of law arising upon the demurrer filed herein by plaintiff to the plea of defendant filed to the declaration of plaintiff, is of opinion that the law is for the plaintiff on said demurrer, and that the plea of said defendant is insufficient, and now orders that the said demurrer be and the same is hereby sustained.

Afterwards, at a Circuit Court continued and held for the District of Missouri, at St. Louis, on Thursday, the 4th day of May, 1854, the following further proceedings were had in said case, viz:—

(*Pleas, Replications, and Statement of Facts filed.*)

DRED SCOTT, Plaintiff,
ag'st
JOHN F. A. SANDFORD, Defendant. } Trespass.

This day came again the parties by their attorneys, and the said attorneys having agreed at the time that the demurrer filed by plaintiff to the plea in abatement of defendant was sustained by the Court, that other pleas should be filed by the defendant, and that an agreed case should be made up by them, and time being allowed for that purpose, now, in accordance with such agreement, the defendant files pleas Nos. 1, 2, and 3; to all of which pleas the plaintiff files replications; and said attorneys also file an agreement signed by them, agreeing upon the statements of the facts in this case.

Which said pleas are as follows, viz:—

(*Plea No.* 1.)

IN THE CIRCUIT COURT OF THE UNITED STATES:

DRED SCOTT
vs.
JOHN F. A. SANFORD. } Plea of Defendant. April Term, 1854.

And the said John F. A. Sanford, by H. A. Garland, his attorney, comes and defends the wrong and injury when, &c., and says that he is not guilty of the said supposed trespass above laid to his charge, or any part thereof, in manner and form as the said Dred Scott hath above thereof complained against him; and of this he, the said Sanford, putteth himself upon the country.

(*No.* 2.)

And for a further plea in this behalf as to the making the said assault upon the said Dred Scott in the first count of the said declaration mentioned, and imprisoning him, and keeping and detaining him in prison, &c., the said Sanford, by leave of the Court first obtained, says, that the said Dred Scott ought not to have or maintain his aforesaid action thereof against him, because he says that before and at the time when, &c. in the said first count mentioned, the said Dred Scott was a negro slave, the lawful property of the defendant, and as such slave he gently laid his hands upon him, and only restrained him of such liberty as he had a right to do. And this the said Sanford is ready to verify. Wherefore he prays judgment whether the said Scott ought to have or maintain his aforesaid action thereof against him.

(*No.* 3.)

And for a further plea in this behalf as to the making the said assault upon Harriet, the wife, and Eliza and Lizzie, the daughters of the said Dred Scott, in the second and third counts of the said declaration mentioned, and imprisoning them and keeping and detaining them in prison, &c., the said John F. A. Sanford, by leave of the Court obtained, says, that the said Dred Scott ought not to have or maintain his aforesaid action thereof against him, because he says, that before and at the said time, &c., when, &c., in the said second and third counts mentioned, the said Harriet, wife of said Scott, and Eliza and Lizzie, his daughters, were the lawful slaves of the said Sanford, and as such slaves he gently laid his hands upon them, and restrained them of their liberty, as he had a right to do; and this he is ready to verify. Wherefore he prays judgment, &c.

GARLAND,
for Defendant.

Which said replications are as follows:—

(*Replications.*)

IN THE CIRCUIT COURT OF THE UNITED STATES,
for the District of Missouri:

DRED SCOTT
vs.
JOHN F. A. SANFORD.

The plaintiff as to the plea of the defendant firstly above pleaded, and whereof he has put himself on the country, doth do like.

FIELD.

And the plaintiff, as to the plea of the defendant secondly above pleaded, as to the said several trespasses in the introductory part of that plea mentioned and therein attempted to be justified, says that the plaintiff, by reason of anything in that plea alleged, ought not to be barred from having and maintaining his aforesaid action against the defendant, because he says, that said defendant at said time when, &c., *of his own wrong, and without the cause by him in his said second plea alleged*, committed the said several trespasses in the introductory part of that plea mentioned, in manner and form as the plaintiff has above in his declaration complained; and this the plaintiff prays may be inquired of by the country, &c.

FIELD.

And the plaintiff, as to the plea of the defendant thirdly above pleaded as to said several trespasses in the introductory part of that plea mentioned, and therein attempted to be justified, says, that the plaintiff, by reason of anything in that plea alleged, ought not to be barred from having and maintaining his aforesaid action against the defendant, because he says that said defendant, at said time when, &c., *of his own wrong, and without the cause by him in his said third plea alleged*, committed the said several trespasses in the introductory part of that plea mentioned in manner and form as the plaintiff has above in his declaration complained. And this the plaintiff prays may be inquired of by the country, &c.

FIELD.

Which said agreed statement of facts is as follows, viz:—

(*Agreed Statement of Facts.*)

IN THE CIRCUIT COURT OF THE UNITED STATES,
for the District of Missouri:

DRED SCOTT
vs.
JOHN F. A. SANFORD.

The parties above named agree on the following statement of facts:—

In the year 1834, the plaintiff was a negro slave belonging to Doctor Emerson, who was a surgeon in the army of the United States. In that year, 1834, said Dr. Emerson took the plaintiff from the State of Missouri to the military post at Rock Island in the State of Illinois, and held him there as a slave until the month of April or May, 1836. At the time last mentioned, said Dr. Emerson removed the plaintiff from said military post at Rock Island to the military post at Fort Snelling, situate on the west bank of the Mississippi river, in the territory known as Upper Louisiana, acquired by the United States of France, and situate north of the latitude of 36 degrees, 30 minutes north, and north of the State of Missouri. Said Dr. Emerson held the plaintiff in slavery at said Fort Snelling, from said last mentioned date until the year 1838.

In the year 1835, Harriet, who is named in the second count of the plaintiff's declaration, was the negro slave of Major Taliaferro, who belonged to the army of the United States. In that year, 1835, said Major Taliaferro took said Harriet to said Fort Snelling, a military post, situated as herein before stated, and kept her there as a slave until the year 1836, and then sold and delivered her as a slave at said Fort Snelling unto the said Dr. Emerson herein before named. Said Dr. Emerson held said Harriet in slavery at said Fort Snelling until the year 1838.

In the year 1836, the plaintiff and said Harriet at said Fort Snelling, with the consent of said Dr. Emerson, who then claimed to be their master and owner, intermarried, and took each other for husband and wife. Eliza and Lizzy, named in the third count of the plaintiff's declaration, are the fruit of that marriage. Eliza is about 14 years old, and was born on board the steamboat Gipsey, north of the north line of the State of Missouri, and upon the river Mississippi. Lizzy is about seven years old, and was born in the State of Missouri at the military post called Jefferson Barracks.

In the year 1838, said Dr. Emerson removed the plaintiff and said Harriet and their said daughter Eliza, from said Fort Snelling to the State of Missouri, where they have ever since resided.

Before the commencement of this suit, said Dr. Emerson sold and conveyed the plaintiff, said Harriet, Eliza and Lizzy, to the defendant as slaves, and the defendant has ever since claimed to hold them and each of them as slaves.

At the times mentioned in the plaintiff's declaration the defendant, claiming to be owner as aforesaid, laid his hands upon said plaintiff, Harriet, Eliza, and Lizzy, and imprisoned them, doing in this respect, however, no more than what he might lawfully do if they were of right his slaves at such times.

Further proof may be given on the trial for either party.

R. M. FIELD,
for Pl'ff.

H. A. GARLAND,
for Def't.

It is agreed that Dred Scott brought suit for his freedom in the Circuit Court of St. Louis county; that there was a verdict and judgment in his favor; that on *on* a writ of error to the Supreme Court the judgment below was reversed and the same remanded to the Circuit Court, where it has been continued to await the decision of this case.

FIELD,
for Pl'ff.
GARLAND,
for Def't.

Afterwards, at a Circuit Court continued and held for the District of Missouri at St. Louis, on Monday, the 15th day of May, 1854, the following further proceedings were had in said case, viz:—

(*Judgment.*)

DRED SCOTT, Plaintiff,
ag'st
JOHN F. A. SANFORD, Defendant. } Case.

This day come again the parties by their attorneys, and, both being ready for trial: It is ordered that a jury come, and thereupon comes said jury, viz: James A. Hardy, Thomas McKenney, John Atkinson, Peter L. Dowling, Samuel Woods, James R. Bridges, R. N. Lock, James A. Scott, John Martin, George Holtzirene, George Berg and Martin Hake, who, after been sworn well and truly to try the issues joined, returned into Court the following verdict, viz: "As to the first issue joined in this case, we of the jury find the defendant not guilty; and as to the issue secondly above joined, we of the jury find that before and at the time when, &c. in the first count mentioned, the said Dred Scott was a negro slave, the lawful property of the defendant; and as to the issue thirdly above joined, we, the jury, find that before and at the time when, &c. in the second and third counts mentioned, the said Harriet, wife of said Dred Scott, and Eliza and Lizzie, the daughters of the said Dred Scott, were negro slaves, the lawful property of the defendant." Whereupon it is now considered by the Court that the plaintiff take nothing by his writ in this case, and that the defendant, John F. A. Sanford, go hence without day, and recover against said plaintiff, Dred Scott, the costs by him expended in the defence of this suit.

Afterwards, on the day and year last aforesaid, the following further proceedings were had in said cause, viz:—

(*Motion for New Trial.*)

DRED SCOTT, Plaintiff,
ag'st
JOHN F. A. SANDFORD, Defendant. } Case.

This day comes again the plaintiff by his attorney and moves the

Court to set aside the verdict and grant him a new trial, upon the grounds and for the reasons set forth in said motion; and the Court being advised of and concerning the same, do order, that said motion be and the same is hereby overruled.

(*Bill of Excep's filed.*)

And thereupon the said plaintiff files his Bill of Exceptions, which is signed, sealed, and ordered to be made part of the record in this case.

Which said Bill of Exceptions is as follows, viz:—

IN THE CIRCUIT COURT OF THE UNITED STATES,
for the District of Missouri:

(*Bill of Exceptions.*)

DRED SCOTT
vs.
JOHN F. A. SANFORD. } April Term, 1854.

On the trial of this cause by the jury, the plaintiff, to maintain the issues on his part, read to the jury the following agreed statement of facts, (inserted on pages 10 and 11 of this transcript.) No further testimony was given to the jury by either party. Thereupon the plaintiff moved the Court to give to the jury the following instruction:—

(*Pl'ff's Instruction.*)

The jury are instructed, that upon the facts agreed to by the parties they ought to find for the plaintiff. The Court refused to give such instruction to the jury, and the plaintiff to such refusal then and there duly excepted. The Court then gave the following instruction to the jury, on motion of the defendant:—

(*Deft's Instruction.*)

The jury are instructed, that upon the facts in this case the law is with the defendant.

To the giving of such instruction the plaintiff then and there duly excepted. The jury found a verdict for the defendant. The plaintiff thereupon immediately filed in Court the following motion for a new trial:—

(*Mo. for New Trial.*)

IN THE CIRCUIT COURT OF THE UNITED STATES,
for the District of Missouri:

DRED SCOTT
vs.
JOHN F. A. SANFORD. } April Term, 1854.

And now, after verdict and before judgment, the plaintiff comes and moves the Court to set aside the verdict and grant a new trial;

because the Court misdirected the jury in matter of law on said trial.

FIELD.

The Court overruled the said motion and gave judgment on the verdict for the defendant, and to such action of the Court the plaintiff then and there duly excepted. The plaintiff writes this Bill of Exceptions and prays that it may be allowed, and signed, and sealed.

FIELD.

Allowed, and signed, and sealed May 15, 1854.

R. W. WELLS. [SEAL.]

MISSOURI DISTRICT:

I, Benjamin F. Hickman, Clerk of the Circuit Court of the United States for the District of Missouri, certify the foregoing fourteen pages, including this, contains a full and complete transcript of the record and proceedings had in said Court in the case of Dred Scott against John F. A. Sanford, as the same remains on file in my office.

In witness whereof I hereunto subscribe my name and affix the seal of said Court at office in the city of St. Louis, this twenty-fifth day of May, eighteen hundred and fifty-four.

[SEAL.] BEN. F. HICKMAN, *Clerk.*

UNITED STATES OF AMERICA,
Missouri District, sct:

The President of the United States of America, to the Judges of the Circuit Court of the United States for the Eighth Circuit and District of Missouri, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in said Circuit Court of the United States for the District of Missouri, before you, between Dred Scott as plaintiff, and John F. A. Sandford as defendant, a manifest error hath happened to the great damage of the said plaintiff Scott, as by his complaint appears, we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be therein given, that under your seal distinctly and openly you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and custom of the United States should be done.

Witness the Honorable Roger B. Taney, Chief Justice of the said

Supreme Court, this 16th day of May, in the year of our Lord one thousand eight hundred and fifty-four.

[SEAL.] BEN. F. HICKMAN,
Clerk.

Allowed by me,

R. W. WELLS.

MISSOURI DISTRICT, SCT:

I, Benjamin F. Hickman, Clerk of the Circuit Court of the United States for the Missouri District, do hereby certify, that in obedience to the within Writ of Error, I hereby send to the Supreme Court of the United States a certified copy of the record and proceedings had in the case of Dred Scott against John F. A. Sandford, in said Circuit Court.

Given under my hand this 23d day of May, 1854.

BEN. F. HICKMAN,
Clerk C't C't U. S. Mo. Dis.

THE UNITED STATES OF AMERICA,

To JOHN F. A. SANDFORD, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a Writ of Error filed in the Clerk's Office of the Circuit Court of the United States for the Missouri District, wherein Dred Scott is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said Writ of Error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf. Witness the Honorable Robert W. Wells, District Judge of the United States for the Missouri District, and one of the Judges of the Circuit Court of the United States for said District, this 17th day of May, in the year of our Lord one thousand eight hundred and fifty-four.

R. W. WELLS.

I acknowledge service of the above citation.

H. A. GARLAND,
Counsel for Sandford, Defendant in Error.

June 17, 1854.

IN THE SUPREME COURT OF THE UNITED STATES,

December Term, 1854.

DRED SCOTT, Plaintiff in Error,
vs.
JOHN F. A. SANDFORD, Defendant in Error.

And now comes said plaintiff in error and says that in the record of the proceedings, and in the giving of the judgment below, there is manifest error;

Because the Court below, in the trial of the cause, misdirected the jury in matter of law:

And because the Court below gave judgment for the defendant below, when the judgment should have been for the plaintiff below.

Wherefore, for said errors and others, the plaintiff prays judgment of reversal here, and that he may be restored to all he has lost. By his attorney.

NATH'L HOLMES.

Filed December 30th, 1854.